

Federal Trade Commission

§ 23.0

- 23.3 Misuse of the terms “hand-made,” “hand-polished,” etc.
- 23.4 Misrepresentation as to gold content.
- 23.5 Misuse of the word “vermeil.”
- 23.6 Misrepresentation as to silver content.
- 23.7 Misuse of the words “platinum,” “iridium,” “palladium,” “ruthenium,” “rhodium,” and “osmium.”
- 23.8 Misrepresentation as to content of pewter.
- 23.9 Additional guidance for the use of quality marks.
- 23.10 Misuse of “corrosion proof,” “non-corrosive,” “corrosion resistant,” “rust proof,” “rust resistant,” etc.
- 23.11 Definition and misuse of the word “diamond.”
- 23.12 Misuse of the words “flawless,” “perfect,” etc.
- 23.13 Disclosure of treatments to diamonds.
- 23.14 Misuse of the term “blue white.”
- 23.15 Misuse of the term “properly cut,” etc.
- 23.16 Misuse of the words “brilliant” and “full cut.”
- 23.17 Misrepresentation of weight and “total weight.”
- 23.18 Definitions of various pearls.
- 23.19 Misuse of the word “pearl.”
- 23.20 Misuse of terms such as “cultured pearl,” “seed pearl,” “Oriental pearl,” “natura,” “kultured,” “real,” “gem,” “synthetic,” and regional designations.
- 23.21 Misrepresentation as to cultured pearls.
- 23.22 Disclosure of treatment to gemstones.
- 23.23 Misuse of the words “ruby,” “sapphire,” “emerald,” “topaz,” “stone,” “birthstone,” “gemstone,” etc.
- 23.24 Misuse of the words “real,” “genuine,” “natural,” “precious,” etc.
- 23.25 Misuse of the word “gem.”
- 23.26 Misuse of the words “flawless,” “perfect,” etc.

APPENDIX TO PART 23—EXEMPTIONS RECOGNIZED IN THE ASSAY FOR QUALITY OF GOLD ALLOY, GOLD FILLED, GOLD OVERLAY, ROLLED GOLD PLATE, SILVER, AND PLATINUM INDUSTRY PRODUCTS

AUTHORITY: 15 U.S.C. 45, 46.

SOURCE: 61 FR 27212, May 30, 1996, unless otherwise noted.

§ 23.0 Scope and application.

(a) These guides apply to jewelry industry products, which include, but are not limited to, the following: gemstones and their laboratory-created and imitation substitutes; natural and cultured pearls and their imitations; and metallic watch bands not permanently attached to watches. These guides also apply to articles, including optical frames, pens and pencils, flat-

ware, and hollowware, fabricated from precious metals (gold, silver and platinum group metals), precious metal alloys, and their imitations. These guides also apply to all articles made from pewter. For the purposes of these guides, all articles covered by these guides are defined as “industry products.”

(b) These guides apply to persons, partnerships, or corporations, at every level of the trade (including but not limited to manufacturers, suppliers, and retailers) engaged in the business of offering for sale, selling, or distributing industry products.

NOTE TO PARAGRAPH (b): To prevent consumer deception, persons, partnerships, or corporations in the business of appraising, identifying, or grading industry products should utilize the terminology and standards set forth in the guides.

(c) These guides apply to claims and representations about industry products included in labeling, advertising, promotional materials, and all other forms of marketing, whether asserted directly or by implication, through words, symbols, emblems, logos, illustrations, depictions, product brand names, or through any other means.

(d) These guides set forth the Federal Trade Commission’s current thinking about claims for jewelry and other articles made from precious metals and pewter. The guides help marketers and other industry members avoid making claims that are unfair or deceptive under Section 5 of the FTC Act, 15 U.S.C. 45. They do not confer any rights on any person and do not operate to bind the FTC or the public. The Commission, however, may take action under the FTC Act if a marketer or other industry member makes a claim inconsistent with the guides. In any such enforcement action, the Commission must prove that the challenged act or practice is unfair or deceptive in violation of Section 5 of the FTC Act.

(e) The guides consist of general principles, specific guidance on the use of particular claims for industry products, and examples. Claims may raise issues that are addressed by more than one example and in more than one section of the guides. The examples provide the Commission’s views on how reasonable consumers likely interpret

§ 23.1

certain claims. Industry members may use an alternative approach if the approach satisfies the requirements of Section 5 of the FTC Act. Whether a particular claim is deceptive will depend on the net impression of the advertisement, label, or other promotional material at issue. In addition, although many examples present specific claims and options for qualifying claims, the examples do not illustrate all permissible claims or qualifications under Section 5 of the FTC Act.

[61 FR 27212, May 30, 1996, as amended at 64 FR 33194, June 22, 1999; 75 FR 81453, Dec. 28, 2010]

§ 23.1 Deception (general).

It is unfair or deceptive to misrepresent the type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character, treatment, substance, durability, serviceability, origin, price, value, preparation, production, manufacture, distribution, or any other material aspect of an industry product.

NOTE 1 TO § 23.1: If, in the sale or offering for sale of an industry product, any representation is made as to the grade assigned the product, the identity of the grading system used should be disclosed.

NOTE 2 TO § 23.1: To prevent deception, any qualifications or disclosures, such as those described in the guides, should be sufficiently clear and prominent. Clarity of language, relative type size and proximity to the claim being qualified, and an absence of contrary claims that could undercut effectiveness, will maximize the likelihood that the qualifications and disclosures are appropriately clear and prominent.

§ 23.2 Misleading illustrations.

It is unfair or deceptive to use, as part of any advertisement, packaging material, label, or other sales promotion matter, any visual representation, picture, televised or computer image, illustration, diagram, or other depiction which, either alone or in conjunction with any accompanying words or phrases, misrepresents the type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character, treatment, substance, durability, serviceability, origin, preparation, production, manufacture, distribution, or any other material aspect of an industry product.

16 CFR Ch. I (1–14 Edition)

NOTE TO § 23.2: An illustration or depiction of a diamond or other gemstone that portrays it in greater than its actual size may mislead consumers, unless a disclosure is made about the item's true size.

§ 23.3 Misuse of the terms “hand-made,” “hand-polished,” etc.

(a) It is unfair or deceptive to represent, directly or by implication, that any industry product is hand-made or hand-wrought unless the entire shaping and forming of such product from raw materials and its finishing and decoration were accomplished by hand labor and manually-controlled methods which permit the maker to control and vary the construction, shape, design, and finish of each part of each individual product.

NOTE TO PARAGRAPH (a): As used herein, “raw materials” include bulk sheet, strip, wire, and similar items that have not been cut, shaped, or formed into jewelry parts, semi-finished parts, or blanks.

(b) It is unfair or deceptive to represent, directly or by implication, that any industry product is hand-forged, hand-engraved, hand-finished, or hand-polished, or has been otherwise hand-processed, unless the operation described was accomplished by hand labor and manually-controlled methods which permit the maker to control and vary the type, amount, and effect of such operation on each part of each individual product.

§ 23.4 Misrepresentation as to gold content.

(a) It is unfair or deceptive to misrepresent the presence of gold or gold alloy in an industry product, or the quantity or karat fineness of gold or gold alloy contained in the product, or the karat fineness, thickness, weight ratio, or manner of application of any gold or gold alloy plating, covering, or coating on any surface of an industry product or part thereof.

(b) The following are examples of markings or descriptions that may be misleading:²

(1) Use of the word “Gold” or any abbreviation, without qualification, to

²See § 23.4(c) for examples of acceptable markings and descriptions.